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**Cc:** Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Konkus, John[konkus.john@epa.gov]; Daniell, Kelsi[daniell.kelsi@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Tue 12/19/2017 10:01:40 PM  
**Subject:** Re: Politico got it wrong on Tar Creek

Thank you!

Sent from my iPhone

On Dec 19, 2017, at 3:19 PM, Block, Molly <block.molly@epa.gov> wrote:

[http://www.joplinglobe.com/opinion/columns/john-berrey-politico-got-it-wrong-on-tar-creek/article\\_96e18c96-8e7d-51b4-bccc-8ab81e6d9575.html](http://www.joplinglobe.com/opinion/columns/john-berrey-politico-got-it-wrong-on-tar-creek/article_96e18c96-8e7d-51b4-bccc-8ab81e6d9575.html)

NOTE: This local control and funding of the cleanups at Superfund sites is consistent with Pruitt's change in the focus of the Superfund program nationwide.

It should be noted that Tar Creek is the first Superfund site in the nation where an Indian tribe has been given the lead by the EPA in site cleanup. It may be news to Malcom Burnley, but the Quapaw tribe has scientists and engineers on staff to provide technical oversight and the tribe has a construction division with heavy equipment and numerous tribal employees with construction and earth moving equipment and experience. These enhancements were a direct result of tribal leaders, the EPA and Sen. Inhofe and his staff working together for over a decade to ensure that the tribe had the capacity and ability to perform this work...

The article states that "(a)s EPA administrator, he (Scott Pruitt) has assumed full responsibility for the still-faltering cleanup." As I pointed out above, the cleanup is far from "faltering," and in fact the state of Oklahoma — seeing how the tribe has achieved unprecedented progress in the cleanup at Tar Creek — has entered into its own inter-agency agreement with the Quapaw tribe to perform cleanup of contaminated nontribal land.

This state/tribe agreement is another nationwide first at a Superfund site. Not surprisingly, after Pruitt sent his senior staff to visit Tar Creek this past summer and report back to him, they reported that because of the tribe's more than adequate capacity to perform the work at a lower cost, and because of the tribe's longstanding relationships with landowners and the local communities, the current remediation work at Tar Creek should be a model for bringing new approaches to large legacy Superfund sites...

After decades of exploitation, environmental devastation, mismanagement of natural resources and broken promises, the Quapaw tribe, with the help of Sen. Inhofe, Pruitt and the EPA, and the state of Oklahoma, has taken a leadership role at the Tar Creek site. With

all due respect to the former residents of the Tar Creek area and Politico, the real story at Tar Creek is this: The members of an Indian tribe were promised land as a place to be Quapaw. Now they are taking it back one truckful of mine waste at a time.

# John Berrey: Politico got it wrong on Tar Creek

Joplin Globe

John Berry: Chairman of Quapaw Tribe of Oklahoma

As the longtime chairman of the Quapaw Tribe of Oklahoma, I take strong exception to the Dec. 6 article by Politico's Malcom Burnley ("The Environmental Scandal In Scott Pruitt's Backyard"), which showed Burnley to be an accomplished ax-grinder.

This piece indicated that Oklahoma Sen. Jim Inhofe bears significant blame for the complicated nature of the cleanup of the Tar Creek Superfund site located on Quapaw land in Northeast Oklahoma.

Even casual observers know that the complications at Tar Creek existed long before the tenure of Sen. Inhofe. When mining companies discovered lead and zinc ore on Quapaw lands in the early 1900s they were required to acquire mining leases through the federal Bureau of Indian Affairs. Many Quapaw tribal members refused to lease their land to the mining companies. Perhaps not unsurprisingly, the BIA responded by declaring those tribal members "incompetent" and went ahead and executed the mining leases on their behalf.

When the Environmental Protection Agency declared Tar Creek a national priority list Superfund site in 1983, the EPA considered the BIA, along with the mining companies, a "responsible party" because of BIA's participation in leasing the land for mining and its management of mining practices on Indian leases.

For most of the 30-plus years since being declared a responsible party by EPA, and therefore liable for the cleanup, BIA has refused to accept responsibility for the cleanup or provide any cleanup funds. In fact, because of its fear of past and future liability, the BIA fought every effort by the EPA to clean up mine waste on Quapaw tribal lands. This — not anything Sen. Inhofe did or didn't do — is the primary reason that cleanup of Tar Creek has languished for over most of the last 35 years.

In reality, Sen. Inhofe and his staff, including his former chief of staff Ryan Jackson, should get significant credit for ending the deadlock between EPA and BIA, thereby allowing the start of the cleanup of the mountains of heavy metal-laden mine waste (called "chat") that dominate the landscape on Quapaw land. In the early 2000s, Sen. Inhofe, using his influence as chairman of Environment and Public Works Committee in the Senate and working with Quapaw tribal leaders, brought upper management of the EPA and the

Department of the Interior together by facilitating an agreement and sponsoring legislation that would ease fear of liability and allow the EPA to finally begin cleanup of mine waste on tribal lands. Since then, there has been more mine waste cleaned up at Tar Creek than in the previous 30 years combined.

More than once in the article the author states that the Quapaw tribe has been “contracted” to perform cleanup at Tar Creek. This represents a fundamental misunderstanding of the facts and the nature of tribal sovereignty. Under the Superfund law, Indian tribes have the same status as states where Superfund sites are concerned. The EPA cleanup funds that the Quapaw tribe’s Environmental Office receives to clean up mine waste on tribal lands are channeled through an inter-agency cooperative agreement — a funding method identical to EPA funding provided to state agencies that participate in Superfund cleanups.

This method of cleanup funding has significant advantages over “contracting” out Superfund cleanup work. By funding a tribe or state agency to perform the work themselves, it allows work to be performed by local entities that know the communities in which they work, not to mention the lower costs that result from avoiding the usual markups of multilayered contractors.

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It is reasonable to expect that the tribe, the most adversely affected stakeholder at Tar Creek, should benefit from the cleanup of its own lands. Accordingly, the Quapaw tribe has cleaned up more waste and returned more acres to productive use since 2013, than was cleaned up in the previous 30 years at Tar Creek.

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local communities, the current remediation work at Tar Creek should be a model for bringing new approaches to large legacy Superfund sites.

Most of the article derides the Lead Impacted Communities Relocation Assistance Trust for alleged mismanagement of the relocation of residents of the Tar Creek area. Although I am not familiar with all of the inner workings of the LICRAT or the nature and validity of all of the grievances of the relocated residents, I do know that all of the residents have been removed from the hazards of the inevitable mine cave-ins that occur at the site on a regular basis.

Members of the LICRAT have also endeavored to see that the tribe ultimately receives the land that was purchased so that the tribe can ensure that the land is remediated and eventually converted into some form that can be safely used as a part of its land base.

It should also be noted that many residents living in the Tar Creek area were living on Quapaw tribal land, and in many cases, did not know it because the BIA had not been collecting rent for decades as it was required to. This resulted in some of the residents' evident resentment toward the LICRAT's proposed buyout offers.

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John Berrey is the chairman of the Quapaw Tribe of Oklahoma.